

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application. Claims 3-11 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

**Claims Rejected**

Applicant notes that the Examiner has rejected claims 1-3 under 35 U.S.C. 102. Likewise, claims 4,5 and 6 stand rejected under 35 U.S.C. 103. However, the Examiner has not set forth a grounds of rejection for claims 7-10. Since these claims depend from claim 5, it is assumed that these claims are rejected under the same grounds as claim 5. The present response is based on this understanding.

**Rejection under 35 U.S.C. 102**

Claims 1-3 stand rejected under 35 U.S.C. 102 as being anticipated by Estevez-Alcolado et al. (USP 5,537,472). This rejection is respectfully traversed.

By way of the present amendment, claims 1 and 2 have been cancelled and replaced by added claim 11. The added claim includes the limitations of these two claims as well as additional limitations. The rejection will be considered in regard to this new claim.

The Examiner states that the reference shows a sound generator for a portable device having a case, a sound generating device mounted in the case, a battery on an outside of the case, terminals provided on the case and a pair of leads connecting the electrodes of the battery with the terminals.

Applicant submits that this reference does not meet the combination of elements as set forth in claim 11 wherein a sound generator is provided that includes a case with a cubic shape and a circular recess in a top portion, a sound generating device mounted in the case, a battery detachably attached in the recess which projects upwardly from the recess, terminals provided on the case and a pair of leads connecting a pair of electrodes with the terminals. Applicant submits that this combination of elements is not seen in the reference.

In particular, the reference does not show a case with a cubic shape, a circular recess and a top portion. It also does not show a battery detachably attached in the recess which projects upwardly from the recess at an upper portion of the battery. Instead, battery 25 of the reference is mounted in the telephone body 12. Accordingly, the reference does not show the battery to be upwardly projecting from the recess. In view of this, Applicant submits that claim 11 as well as the claims which depend therefrom are allowable.

**Rejection under 35 U.S.C. 103**

Claim 4 stands rejected under 35 U.S.C. 103 as being obvious of Estevez-Alcolado et al. in view of Ohta (USP 6,208,238). This rejection is respectfully traversed.

The Examiner cites the Ohta reference to show the use of a buzzer in a mobile phone. Applicant submits that even if this reference does show this feature, it does not aid the primary reference in overcoming its deficiencies as noted above. Accordingly, Applicant submits that claim 4 is likewise allowable.

Claims 5 and 7-10 stand rejected under 35 U.S.C. 103 Estevez-Alcolado et al. in view of Fujiuchi et al. (USP 5,844,484). This rejection is respectfully traversed.

The Examiner relies on Fujiuchi et al. to show a portable device having a flat battery or button type battery and electrodes. Applicant submits that even if this reference does teach this feature, it does not aid the primary reference in overcoming its deficiencies noted above. Accordingly, claims 5, and 7-10 are also allowable.

Claim 6 stands rejected under 35 U.S.C. as being obvious under Estevez-Alcolado et al. in view Ohta and Fujiuchi et al. This rejection is respectfully traversed.

Applicant submits that even the combination of the three references does not show the combination of elements described in

claim 11 from which claim 6 depends. Accordingly, Applicant submits that this rejection is likewise overcome.

**No Prosecution History Estoppel**

Claim 11 is hereby presented in independent form. No prosecution history estoppel will be applied to the interpretation of the limitations set forth in claim 11 and the claims that depend therefrom, in view of the fact that the subject matter has been continuously presented since the original filing date of the present application.

Conclusion

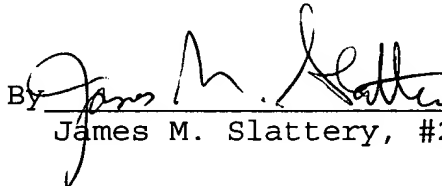
In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner either alone or in combination. In view of this, reconsideration of the rejections and the allowance of the claims is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse (Reg. No. 27,295) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
James M. Slattery, #28,380

JMS/RFG:trb  
3542-0104P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000